

**PATENT**

**IN THE U.S. PATENT AND TRADEMARK OFFICE**



Appellants: Norbert BECKER et al. Conf.: 7826  
Appl. No.: 09/936,047 Group: 2162  
Filed: February 13, 2002 Examiner: Cam Y. T. TRUONG  
For: AUTOMATION SYSTEM WITH AUTOMATION OBJECTS WITH A  
DIRECTORY STRUCTURE AND METHOD FOR THE  
MANAGEMENT OF AUTOMATION OBJECTS IN A DIRECTORY  
STRUCTURE  
Docket No.: 32860-000171/US

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August 29, 2007

**Mail Stop Appeal Brief – Patents**

**REPLY BRIEF**

Sir:

The following comments are directed to the points of arguments and comments raised in the Examiner's Answer mailed July 13, 2007.

**I. Rejection of Claims 1-16 Under 35 USC § 103**

Claims 1-16 stand rejected under 35 USC § 103(a) as being obvious over US 5,974,572 to Weinberg et al. ("Weinberg") in view of US 5,987,242 to Bentley et al. ("Bentley").

It is alleged in the Final Office Action, and the Examiner's Answer that Weinberg teaches each and every feature recited in the rejected claims, but does not explicitly teach the claimed limitation "in parallel." In an effort to overcome the admitted deficiencies, Bentley is combined with Weinberg.

However, Weinberg fails to disclose the features as alleged. Weinberg relates to software tools for load testing websites and other types of client server systems according to browsing behaviors of typical users of the websites (col. 1, lines 27-32). Thus, Weinberg provides a test generation tool that eliminates the need for a user to browse the website or actively define a user

scenario by providing a software module and an associated method for automatically generating test scenarios based on information stored within a server access log file. The log files typically include IP addresses of the visitors, i.e., the uniform resource locators (URL's) that were accessed, and the times and dates of the accesses (col. 2, line 66-col. 3, line 15).

Specifically, Weinberg provides an Astra Site Manager™ program (Astra) that includes features for facilitating the mapping, analysis (including load testing) and management of websites. Given the address of the websites home page, Astra automatically scans the website and creates a graphical site map showing all of the URL's of the site and the links between these URL's. The layout and display method used by Astra for generating the site map provides a highly intuitive, graphical representation which allows the user to visualize the layout of the site. Using the mapping feature, in combination with Astra's integrated tools for navigating filtering and manipulating the website map, users can intuitively perform such actions as isolating and repairing broken links, focusing in on web pages (and other content objects) and a particular content type and/or status, and highlight modifications made to a website since a prior mapping (col. 7, lines 41-59). Thus, the system of Weinberg merely scans websites and creates a graphical site map which can be worked on as described above. The websites are not automation objects as that term is well known in the art.<sup>1</sup>

In contrast to Weinberg, the subject matter of the present Application relates to an automation system which has at least one automation object. As is well known in the art, an automation system is made up of code modules that users can assemble in different ways to suit their particular needs. In other words, an automation system is a process where one software component communicates with another software component to provide a basis for cross-component communication used in programming languages such as Visual Basic, C++, etc. Weinberg merely provides software tools for facilitating the mapping, analysis, and management of websites through a graphical interface showing the URL's of the site and links between the URL's that have been visited by a user. Accordingly, Weinberg does not relate to an automation system for creating an automation solution and an automation technology that includes a plurality of automation objects which are to be created and worked on, each automation object providing a

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<sup>1</sup> An automation object is an object that is exposed to other applications or programming tools that supports object linking and imbedding (OLE Automation).

partial automation solution. Therefore, Weinberg does not disclose or suggest the features as alleged in the Final Office Action or in the Examiner's Answer.

It is further alleged in the Final Office Action and the Examiner's Answer that Weinberg discloses a "plurality of automation objects which are to be created and worked on, each automation object realizing a partial automation solution" by the disclosure in Weinberg of the management of websites being scanned to create the graphical site map showing the URL's of the site. It is further alleged that such information shows that the websites are created and worked on by users to create web pages.

Figure 8 of Weinberg illustrates an object model used by Astra that includes six classes of objects which are implemented as OLE Automation objects (Astra, Site Graph, Edges, Edge, Nodes and Node). The Astra object 94, for example accesses and manipulates data stored by a Site Graph object 114. The Site Graph object corresponds generally to a map of the website and includes information about the URL's and links of the website.

Although Weinberg discloses the use of OLE Automation objects, merely disclosing the use of automation objects does not correspond to "a plurality of automation objects which are to be created and worked on, each automation object realizing a partial automation solution," as recited in rejected claims. Rather, in Weinberg, the OLE Automation objects are already created and are not available to be worked on. In other words, there is no creation of an automation object, nor are the objects worked on to realize a partial automation solution. Instead, the OLE Automation objects of Astra have already been created and are merely used as tools for their intended purposes by Astra for showing a graphical display of a website.

It is further alleged, that Weinberg shows "a directory for entering and storing object names of the automation object when created," as recited in the rejected claims. However, Weinberg does not show any directory for entering or storing names of the graphical site maps as automation objects. For example, Fig. 3 of Weinberg merely shows a created graphical map of a website where complex web structures and the interrelationship between data entries of those structures are displayed in such a way that makes navigation for the user easier. Information data with respect to references in the form of URL's and interfaces in the form of links disclosed by Weinberg as possible further information data do not refer to the graphical site maps as the automation objects, but to the content of the website scanned by Weinberg's system. Thus, Weinberg fails to disclose all of the claimed features as alleged.

## II. Motivation to Combine

It is further alleged in the Final Office Action and Examiner's Answer that one of ordinary skill in the art would have been motivated to modify the website management software of Weinberg to allow a number of users in parallel to create the automation solution in automation technology. Specifically, it is alleged that because Weinberg teaches large numbers of concurrent visitors accessing a website on web servers via the Internet that there is motivation to combine the teachings of Bentley which allegedly provide mechanisms to create and manage parallel development of a model. However, merely because Weinberg teaches that there are a large number of concurrent visitors accessing a website, that does not provide a motivation or suggestion to allow parallel users to work on managing the website content and maintaining website effectiveness as taught by Weinberg. Moreover, even if such combination were made, as Weinberg does not relate in any way to the creation and working on automation objects, whether parallel access is allowed or not, is irrelevant.

Moreover, the motivation or suggestion to combine a reference or modify the primary reference must both be found in the prior art, and not based on Applicants disclosure (see MPEP § 2143). The availability of the prior art reference for combination with other references depends on determining whether the particular references are within the appropriate scope of art (In re Wood, 599 F. 2d 1032, 1036, 202 USPQ 171, 174 (CCPA 1979)). Determination of whether a reference is within the appropriate scope of the art may be determined by whether the references are reasonably pertinent to the particular problem with which the inventor was involved (In re Diminski, 796 F.2d 436, 230 USPQ 313 (Fed. Cir. 1986)).

As discussed above, Weinberg relates to software systems and methods for generating a load test that allows a website to be tested according to the browsing behaviors of typical users. The problem being addressed in Weinberg are difficulties in managing website content and maintaining website effectiveness due to a wide array of burdensome tasks, including for example, the identification and repair of large numbers of broken links (i.e., links to missing URL's), monitoring and organizing large volumes of diverse, continuously-changing website content, and a detection of management congested links (col. 1, lines 36-45 of Weinberg).

In contrast, Bentley relates to computerized modeling, such as computer aided design (CAD) used in geometry-orientated engineering. Bentley seeks to resolve problems known to

exist in such 2-d and 3-d modeling of the physical properties of a design that occur as a result of a lack of correlation with the geometric properties and the most efficient strategy for organizing and storing the model information. For example, because modeling data from different domains may be simultaneously required in arbitrary combination by a user, multiple unrelated demands specific tools can not be employed (col. 1, lines 18-57 of Bentley). Because the problem being addressed in Bentley cannot be determined to be reasonably pertinent to the particular problem being addressed by Weinberg, the references cannot be combined to determine the patentability of the Applicants claims (*In re Clay*, 966 F. 2d 656, 23 USPQ 2d 1058 (Fed. Cir. 1992)).

Because the references cannot be combined as proposed in the Final Office Action and the Examiner's Answer, the combination of references fails to disclose or suggest each and every feature recited in rejected claims.

### **III. Examiner's Response to Arguments**

In the Examiner's Answer, the Examiner seeks to define terminology used in the rejected claims and correlate the Examiner's alleged definitions to citations in the Weinberg reference. Appellants submit that the Examiner has used an incorrect approach to determine the claim definitions. For example, the Examiner seeks to define certain claim terms according to definitions in the *Merriam-Webster Collegiate Dictionary* and then to give the terms their broadest "reasonable" meaning in light of the dictionary definition.

When interpreting claims during examination "claims yet unpatented are to be given their broadest reasonable interpretation consistent with the specification during an examination of a patent application" (*In re Prater*, 415, F. 2d 1493 (1969)). This standard is also provided as the standard for claim interpretation under MPEP §2111 which recites that "during patent examination the pending claims must be given the broadest reasonable interpretation consistent with the specification." Accordingly, the Examiner's use of the *Merriam-Webster Collegiate Dictionary* is incorrect. Rather, the Examiner should turn first to the specification in the event that the claim terms are unclear to the Examiner.

The specification is the "primary basis for construing claims" and is the "single best guide to claim meaning" because the specification, as set forth by statute, describes the claimed invention in full, clear, concise and exact terms (*Phillips v. AWH Corp.*, 415 F.3d 1303 (Fed. Cir. 2005)).

The Examiner also alleges that because Appellants did not provide a definition for “an object” in the specification that the broadest reasonable meaning of the word “object” in light of the definition provided in the *Merriam-Webster Collegiate Dictionary* may include nodes of a graphic site map as cited in Weinberg.

Appellants respectfully remind the Examiner that it is not necessary for an Applicant to give a specific definition for each and every term recited in the claims if the term would be readily recognizable by one in ordinary skill in the art. As discussed above, an automation object is a term of art that is readily recognized by one skilled in the art as an object that is exposed to other applications of programming tools through automatic interfaces.

A similar approach is taken to define the claim term “automation” by first turning to the *Merriam-Webster Collegiate Dictionary* and only then turning to the context of the specification. Again, when attempting to define the claim term “directory,” a dictionary definition is first looked to and given a definition of from the dictionary. As discussed above, if a claim term is unclear to the Examiner, the specification should first be looked to, then the prosecution history should be reviewed to determine the meaning and only if the meaning of the term is still unknown, then should external resources be used.

Appellants submit that when the terms of the pending claims are given their proper definition, as would be readily understood by one of ordinary skill in the art upon reading the specification, it is apparent that the applied references fail to disclose or suggest each and every feature recited in the rejected claims.

**V. Conclusion:**

It is respectfully submitted that the remaining points of arguments set forth in the Examiner's Answer were fully addressed in the Appellants Appeal Brief. For at least the reasons set forth herein and then the Appeal Brief, it is respectfully submitted that the pending claims are in condition for allowance.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

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